

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:

ATHENEX INC., et al.,

Debtors.<sup>1</sup>

Chapter 11

Case No. 23-90295 (DRJ)

(Jointly Administered)

**Re Docket Nos. 17, 113 & 311**

**NOTICE OF SUCCESSFUL BIDS FOR THE SALE OF ASSETS OF  
DEBTOR ATHENEX PHARMACEUTICAL DIVISION, LLC**

**PLEASE TAKE NOTICE** that on May 14, 2023, the Debtors filed their *Debtors' Emergency Motion for (I) Entry of an Order Approving (A) Bid Procedures; (B) the Form and Manner of Notice; (C) the Procedures for Determining Cure Amounts for Executory Contracts and Unexpired Leases; and (II) Entry of an Order Approving (A) the Sale of Substantially All of the Debtors' Assets Free and Clear of All Liens, Claims, Encumbrances and Interests; and (B) the Assumption and Assignment of Certain Contracts and Unexpired Leases* [Docket No. 17] (the "Bid Procedures & Sale Motion").

**PLEASE TAKE NOTICE** that on May 22, 2023, the Court entered the *Order Approving (A) Bid Procedures; (B) the Form and Manner of Notice; (C) the Procedures for Determining Cure Amounts for Executory Contracts and Unexpired Leases; and (D) Granting Related Relief* [Docket No. 113] (as may be amended, modified or supplemented, the "Bid Procedures Order"), approving the Bid Procedures<sup>2</sup> and establishing, among other things, procedures to solicit Qualifying Bids, Procedures for the Assumption and Assignment of Executory Contracts and Unexpired Leases, and scheduling the Auction and Sale Hearing.

**PLEASE TAKE FURTHER NOTICE** that following the conclusion of the Auction held on June 21, 2023 pursuant to the terms of the Bid Procedures for the sale of the assets of Athenex Pharmaceutical Division, LLC ("APD"), and after consultation with the Official Committee of Unsecured Creditors, the Debtors file this *Notice of Successful Bids for the Sale of Assets of Debtor Athenex Pharmaceutical Division, LLC* (the "Notice of Successful Bids") to set forth the identity of the two Prevailing Purchasers and a summary of the terms of the Successful Bids:<sup>3</sup>

<sup>1</sup> A complete list of each of the Debtors in these Chapter 11 Cases may be obtained on the website of the Debtors' claims and noticing agent at <https://dm.epiq11.com/athenex>. The location of Athenex, Inc.'s principal place of business and the Debtors' service address in these Chapter 11 Cases is 1001 Main Street, Suite 600, Buffalo, NY 14203.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Bid Procedures Order or, as applicable, the Bid Procedures attached thereto as Exhibit A.

<sup>3</sup> The summary of the referenced purchase agreements in this Notice are intended solely for informational purposes to provide the Court and parties in interest with an overview of the significant terms thereof. The summary is qualified in its entirety by the underlying purchase agreements, which shall be filed in their entirety by separate notice. In the event that there is any conflict between this Notice and the referenced purchase agreements, the purchase agreements will control in all respects.

**Sagent Purchased Assets**

<b>Seller:</b>	Athenex Pharmaceutical Division, LLC
<b>Prevailing Purchaser:</b>	Sagent Pharmaceuticals
<b>Amount:</b>	\$14,000,000 subject to adjustment per the terms of the Asset Purchase Agreement with respect to inventory, plus assumption of not less than \$7,000,000 of cure liabilities with a commitment to cure \$1,540,705 of section 503(b)(9) liabilities arising under certain specified contracts
<b>Purchased Assets:</b>	<p>All of Seller's right, title and interest in and to all of Seller's property and assets, real, personal or mixed, tangible and intangible, of every kind and description, held for use or used in the Business, including:</p> <p>(a) all inventory on hand owned by Seller in connection with the Business (the "Inventory"), and all rights of Seller in any raw materials;</p> <p>(b) all of Seller's rights under the Assigned Contracts; provided, however, by written notice to the Seller, Buyer may, in its sole and absolute discretion, amend or revise the list of Assigned Contracts (i) at any time prior to the Sale Hearing, in order to add any Contract or remove any Contract, and (ii) at any time after the Closing Date to remove any Contract in the event that after Closing, (A) the Bankruptcy Court determines (or the parties otherwise agree) that the actual Cure Costs exceed the estimated Cure Costs set forth in the Seller's Cure Notices entered in the Bankruptcy Case as Docket Nos. 141, 162 and 249, or (B) a timely filed objection to a Cure Cost or to Buyer's assumption and assignment of a Contract is not resolved; provided, that Buyer has notified Seller in writing of the removal of any such Contract no later than thirty (30) days following the final determination of the actual Cure Cost of such Contract; <u>provided</u>, further that in no event will Buyer pay less than \$7,000,000 in Cure Costs, inclusive of the 503(b)(9) Claims;</p> <p>(c) all of Seller's rights relating to deposits and prepayments with respect to purchase orders or other Contracts included in the Assigned Contracts, if any;</p> <p>(d) the Permits, to the extent transferrable and assignable, including all ANDAs used in or in connection with the Business;</p> <p>(e) all warranties (express and implied) that continue in effect with respect to any Purchased Asset (including, without limitation, warranties provided for under any Assigned Contract, if any), to the extent assignable;</p> <p>(f) all intangible personal property (including Intellectual Property) owned or held by Seller to the extent used exclusively in connection with the Business, including with respect to all existing products and all products in development, but in all cases only to the extent of Seller's interest and only to the extent transferable including, without limitation, the goodwill of the Business, processes, trademarks, trade names, service marks, domain names, catalogues, customer lists and other customer data bases, advertising materials, software programs, and telephone numbers identified with the Business;</p> <p>(g) to the extent transferable, all insurance benefits, right and proceeds arising from or relating to the Purchased Assets or the Assumed Liabilities; and</p> <p>(h) all Books and Records (including all non-income Tax Returns with respect to the Purchased Assets or the Business, for taxable periods ending on or prior to the Closing Date), except as specifically provided in the Asset Purchase Agreement.</p>

**Oaktree Purchased Assets**

<b>Seller:</b>	Athenex Pharmaceutical Division, LLC
<b>Prevailing Purchaser:</b>	Oaktree Strategic Credit Asset Holdings, LLC, and Oaktree fund Administration, LLC
<b>Amount:</b>	Credit bid of \$20,000,000 subject to adjustment per the terms of the Asset Purchase Agreement
<b>Purchased Assets:</b>	<p>(a) all of the Seller's accounts and notes receivable (whether current or noncurrent) and all causes of action specifically pertaining to the collection of the foregoing, in each case to the extent arising exclusively out of the operation of the Business (but excluding any accounts or notes receivable due from any Affiliate of Seller) held as of the Closing Date;</p> <p>(b) all credits, claims for refunds, deposits for the benefit of third parties and prepaid expenses relating to or arising in connection with the Purchased Assets or rights of setoff, rights of recoupment, rights of reimbursement, rights of or to indemnity or contribution and other similar rights (known and unknown, matured and unmatured, accrued or contingent, regardless of whether such rights are currently exercisable) against any Person, including (i) any Action available to or being pursued by any Seller to the extent related to any Purchased Assets, Assumed Liabilities or the ownership, use, function or value of any Purchased Asset, whether arising by way of counterclaim or otherwise; and</p> <p>(c) all Books and Records, except as Seller may be required to retain under applicable Law.</p>

**PLEASE TAKE FURTHER NOTICE** that the following Back-Up Bid with respect to the Sagent Purchased Assets has been identified:

<b>Seller:</b>	Athenex Pharmaceutical Division, LLC
<b>Back-Up Bidder:</b>	Avenacy Inc.
<b>Amount:</b>	\$13,700,000 subject to adjustment per the terms of the Asset Purchase Agreement with respect to inventory, plus assumption of not less than \$2,029,955 of cure liabilities with a commitment to cure \$1,540,705 of section 503(b)(9) liabilities arising under certain specified contracts

**PLEASE TAKE FURTHER NOTICE** that on June 20, 2023, the Debtors filed the *Notice of Partially Continued Sale Hearing and Related Dates Solely With Respect to Athenex Pharmaceutical Division, LLC in Connection With Order Approving (A) Bid Procedures; (B) the Form and Manner of Notice; (C) the Procedures for Determining Cure Amounts for Executory Contracts and Unexpired Leases; and (D) Granting Related Relief* [Docket No. 311], setting the sale hearing for APD for **June 27, 2023 at 11:30 a.m. (prevailing Central Time)** (the APD Sale Hearing). Parties may participate in the APD Sale Hearing by audio and video connection or in person at Courtroom 400, Floor 4, 515 Rusk, Houston, Texas 77002.

**PLEASE TAKE FURTHER NOTICE** that any objections to this Notice of Successful Bids must be filed not later than **June 26, 2023 at 12:00 p.m. (prevailing Central Time)**.

**PLEASE TAKE FURTHER NOTICE** that audio communication will be by the use of the Court's dial-in facility. You may access the facility at (832) 917-1510. Once connected, you will be asked to enter the conference room number. Judge Jones's conference room number is 205691. Video communication will be by use of the GoToMeeting platform. Connect via the free GoToMeeting application or click the link on Judge Jones's homepage. The meeting code is

“JudgeJones.” Click the settings icon in the upper right corner and enter your name under the personal information setting.

**PLEASE TAKE FURTHER NOTICE** that hearing appearances must be made electronically in advance of the Hearing. To make your appearance, click the “Electronic Appearance” link on Judge Jones’s homepage. Select the case name, complete the required fields, and click “Submit” to complete your appearance. All documents filed in this chapter 11 case are available free of charge by visiting <https://dm.epiq11.com/athenex>. Copies of any pleadings or papers filed with the Court may be obtained by visiting the Court’s website at <https://ecf.txsb.uscourts.gov> in accordance with the procedures and fees set forth therein.

Dated: June 22, 2023

**PACHULSKI STANG ZIEHL & JONES LLP**

*/s/ Michael D. Warner*

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*Proposed Counsel to the Debtors and Debtors in Possession*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 22, 2023, a true and correct copy of the above and foregoing has been served on all parties that are registered to receive electronic transmission through this Court's CM/ECF filing system in these cases.

/s/ Michael D. Warner

Michael D. Warner